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2002 DEC 10 PM 3:15

SACRAMENTO COURTS
DEPT. #53 #54

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF SACRAMENTO

17 FAIR POLITICAL PRACTICES COMMISSION,
a state agency,

18 Plaintiff,

20 v.

21 AGUA CALIENTE BAND OF CAHUILLA
INDIANS, and DOES I-XX,

22 Defendants.

Case No. 02AS04545

DECLARATION OF JEANNE OLSON
IN SUPPORT OF OPPOSITION TO
MOTION TO QUASH

Date: December 20, 2002

Time: 2:00 p.m.

Dept: 53

Judge: Hon. Loren McMaster

Action Filed July 31, 2002

No Trial Date Set

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1 I, Jeanne Olson, declare as follows:

2 1. I am the Executive Director of the Minnesota Campaign Finance and Public Disclosure
3 Board, a position I have held since 1995. However, I have worked for the Board in various capacities
4 since 1982. I am submitting this declaration in support of the California Fair Political Practices
5 Commission's opposition to the motion to quash filed by the Agua Caliente Band of Cahuilla Indians. I
6 make this declaration based upon my own personal knowledge and, if called upon to testify to the facts
7 set forth herein, could competently testify thereto.

8 2. The Minnesota Campaign Finance and Public Disclosure Board, a six-member bi-
9 partisan citizen board, was established in 1974 and charged with the administration and enforcement of
10 the Ethics in Government Act ("Act"). Its primary goal is to promote public confidence in state
11 government decision-making through development, administration and enforcement of disclosure and
12 public financing programs that will ensure public access to and understanding of information filed with
13 the Board. The Board was given the authority to administer and manage the registration and public
14 disclosure by state legislative and constitutional office candidates, political party units, political
15 committees, and political funds; registration and public disclosure by lobbyists and their principals
16 attempting to influence state legislative action, administrative action, and the official action of
17 metropolitan governmental units; disclosure of economic interests, conflicts of interests, and
18 representation of a client for a fee under certain circumstances for certain state and metropolitan
19 officials; and distribution of payments from the state's public subsidy program that provides public
20 funding to qualified state candidates and the state committee of a political party; and allows those
21 candidates and parties to give political contribution refund receipts to certain campaign contributors, as
22 well as the enforcement of any possible violations related to these functions. The Board's enabling
23 authority can be found in Minnesota Statutes, Chapter 10A. The registration reports that are filed with
24 the Minnesota Campaign Finance and Public Disclosure Board may be viewed on our website, at
25 <http://www.cfboard.state.mn.us/>

26 3. In the State of Minnesota, several Native American Indian tribes operate large, Las
27 Vegas-style gambling casinos on their tribal lands. Since the inception of the Act, only two tribes have
28

1 refused to comply with the Act. Both cases have required legal action for resolution, and in both cases,
2 the court found the tribes to be subject to the Act.

3 4. In *State of Minnesota Ex. rel. Minnesota Campaign Finance and Public Disclosure*
4 *Board v. Red Lake DFL Committee*, 303 N.W.2d 54 (Minn. 1981), a true and correct copy of which is
5 attached hereto as Exhibit A, the Indian tribe's DFL Committee appealed from an order of contempt
6 issued by the district court against it and its president for failure to comply with an earlier order
7 directing it to register with the Board as a political committee or register a political fund and comply
8 with various other regulations related to such committees. The Minnesota Supreme Court affirmed the
9 district court's determination that the committee's activities were subject to the Minnesota statutory
10 provisions.

11 5. In November 1978, the committee had purchased two political advertisements in the
12 Bemidji Pioneer, which were addressed to "all Minnesota Indian Voters" and also urged "all the
13 DFL'ers and Independents" to vote for the Democratic candidates for governor, the state legislature and
14 Congress. The ad was paid for with a check drawn on a bank located outside the reservation, although
15 the newspaper's editor solicited the ad and met with committee members at the tribal office on the
16 reservation. The Bemidji Pioneer was a newspaper of general circulation, published outside the
17 reservation, in Bemidji, and the ads went to approximately 7,400 households in Beltrami County and
18 surrounding counties. Approximately 300 to 500 copies of the newspapers were delivered within the
19 reservation.

20 6. After the committee had ignored requests that it register with the State, the Board
21 brought an action for a mandatory injunction against the committee and its treasurer. Both defaulted,
22 and following a default hearing on December 17, 1979, the court issued an order directing defendants
23 to comply with the statute requiring registration. Soon after, the committee moved for vacation of the
24 judgment, asserting the court lacked jurisdiction. The Board, in turn, moved for an order finding the
25 committee and the treasurer in contempt for willful noncompliance with the December 17, 1979, order.
26 The trial court concluded the defendants were in contempt, and imposed a forfeiture of \$250 for each
27 day, beginning 30 days from entry of the contempt citation, that noncompliance continued. The
28 forfeiture provision was stayed, pending the committee's appeal.

1 7. The committee asserted that its activities took place within the confines of the
2 reservation, therefore, rendering those activities outside the state’s jurisdictional boundaries. The court
3 concluded, however, that the committee’s activities, while originating within reservation boundaries,
4 extended beyond those boundaries, and affected persons outside the reservation. The court further
5 stated that the committee’s activities *were intended* to affect persons outside the reservation, and that
6 the ads themselves demonstrated such an intent, as they were addressed to **all** Minnesota Indian voters,
7 as well as to **all** members of a major political party and to **all** independent voters. Further, more than
8 95% of the ads were distributed to persons outside the reservation.

9 8. The court concluded that “activities initiated within the reservation and reasonably
10 calculated to influence voters outside the reservation are a proper concern of the state and subject to its
11 reasonable regulation. . . . As plaintiff points out, the Red Lake Band participates in the election
12 process, has the same interest as other voters in the integrity of that process, and has a corresponding
13 obligation to comply with state laws which govern that process and guard its integrity. Nor is the
14 defendant Committee being asked to do any more than other organizations outside the state which are
15 required to comply with Chapter 10A when they similarly seek to influence voters in the state.” *Red*
16 *Lake DFL Committee*, 303 N.W.2d at 56.

17 9. In the other case, *Shakopee Mdewakanton Sioux (Dakota) Community v. Minnesota*
18 *Campaign Finance and Public Disclosure Board*, 586 N.W.2d 406 (Minn. Ct. App. 1998), a true and
19 correct copy of which is attached hereto as Exhibit B, the tribe formed a Political Action Committee
20 (“PAC”) for the purpose of making political contributions to recipients outside the reservation. The
21 PAC was registered and required to make financial disclosures pursuant to the Act. However, in 1996,
22 the Minnesota Campaign Finance and Public Disclosure Board (“Board”) learned that a political party
23 had received a \$27,500 contribution directly from the tribe, which, unlike the PAC, was not registered
24 and did not make the required financial disclosures. The Board notified the secretary-treasurer of the
25 tribe and treasurer of the PAC that the tribe was required to make the financial disclosures governing
26 contributions made by unregistered associations. The political party returned the \$27,500 to the tribe,
27 which then turned it over to the PAC. The PAC then contributed the money to political party, reporting
28 the contribution, but likewise making no financial disclosures to the Board.

1 10. The Board then advised the tribe that it was an “association” under the Act and was
2 therefore required to either register as a Committee and be subject to disclosure requirements, or to
3 provide financial disclosures to the PAC when supplying funds for political contributions. The tribe
4 then requested an advisory opinion from the Board, as permitted under the Act.

5 11. In May 1998, the Board issued an Advisory Opinion, stating that the tribe was a
6 statutory association, notwithstanding its status as a sovereign entity; that it was not required to register
7 or to provide all of the financial disclosures normally required under the Act; and that it was required to
8 make modified disclosures concerning the sources of funds comprising political contributions. The
9 tribe objected to being classified as an association on the basis that its status as a sovereign nation
10 precluded such a subordinate status and that such classification was unnecessary to the Board’s
11 enforcement power. In response, the Board amended its opinion by deleting references to the tribe’s
12 classification as an association, but did not alter the disclosure requirements, or its order that the PAC
13 return the \$27,500 to the tribe or obtain the appropriate disclosures of the sources of the funds from the
14 tribe. The tribe moved to enjoin enforcement of the opinion and the order. The district court denied
15 the motion.

16 12. The Minnesota Court of Appeals affirmed the District Court’s ruling, relying on *Red*
17 *Lake*, 303 N.W.2d at 56, which “established the authority of the Board over tribal political
18 committees.” The court concluded: “[H]aving accurate and specific information on the sources of
19 money political candidates receive, not merely on the amounts and the donors of that money, ‘is a
20 compelling public concern.’ *Red Lake*, 303 N.W.2d at 56.” *Shakopee*, 586 N.W.2d at 406.

21 13. Other than the tribes in these two cases, no tribe has contested the Board’s jurisdiction,
22 and it has not been necessary to impose fines on any of the other Indian tribes or their political
23 committees.

24 14. There are a number of tribes in Minnesota that fully comply with the State of
25 Minnesota’s election and campaign laws. They have formed political committees and/or political
26 funds, as required by state law, and have registered those committees with the state. In addition, they
27 regularly file lobbying reports when required to do so.
28

15. For example, attached hereto as Exhibit C is a true and correct copy of a document downloaded from our website listing the current registration information for the Lower Sioux Political Education Fund.

16. Attached hereto as Exhibit D is a true and correct copy of a document downloaded from our website listing the current registration information for the Mah Mah Wi No Min – I Political Fund.

17. Attached hereto as Exhibit E is a true and correct copy of a document downloaded from our website listing the current registration information for the Shakopee Mdewakanton Sioux Political Committee.

18. Attached hereto as Exhibit F is a true and correct copy of a document downloaded from our website listing the current registration information for the Bois Forte Political Education Fund.

19. Attached hereto as Exhibit G is a true and correct copy of a document downloaded from our website listing the current registration information for the Fond du Lac Committee of Political Education.

20. Attached hereto as Exhibit H is a true and correct copy of a document downloaded from our website listing the current registration information for the Leech Lake PAC.

21. Attached hereto as Exhibit I is a true and correct copy of pertinent pages downloaded from the Lobbyists area of our website, reached through a link entitled "List of Associations and Their Registered Lobbyists." The attached pages are true and correct copies downloaded from that area of our website that lists each of the following tribes as having registered with the Board as employing a lobbyist during 2002: Bois Forte Indian Reservation, Fond du Lac Reservation, Leech Lake Reservation Business Committee, Lower Sioux Community, and Shakopee Mdewakanton Sioux (Dakota) Community.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of December at St. Paul, Minnesota

Jeanne Olson
JEANNE OLSON